IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4698 OF 2000

GLAXO INDIA LIMITED, a Company
registered under the Companies'
Act 1956, having its Registered
Office at Dr. Annie Besant Road,
Worli, Mumbai 400 025 and having
amongst other factories, a
factory at A-10, Additional
M.I.D.C. Industrial Area,
Ambad Pathardi Block, Nashik
422 010 ...Petitioner.

V/s

1. Nasik Mathadi and Unprotected
Labour Board, Nasik,
Pingale Complex, Shastrinagar,
Sharanpur Road, Nasik 422002.

1A. Shri G.S. Gangurde, Dy.
Commissioner of Labour &
Chairman, Nashik Mathadi &
Unprotected Labour Board,
Nashik, having his office
at Pingle Complex, Shastri
Nagar, Sharanpur Road,
Nashik 422 002.

2. Nashik Zilla Mathadi
Transport & General Kamagar
Union, having its office
at: CITU Centre, Trayambak
Road, Satpur, Nashik 422007.

3. R.B. Dhongade & Co.
through its proprietor
Mr. Rajaram Baburao Dhongade
At & Post : Gondedumala
Taluka: Igatpuri, Dist. Nashik

4. Jai Yogeshwar Labour Supplier
through its proprietor
Mr. Kacharu Dhongade
At & Post: Gondedumala,
Taluka: Igatpuri, Dist. Nashik. ...Respondents.

Mr. P.K. Rele with Mr. Pyush Shah for the petitioner.

Mr. Bhavesh Parmar for respondent No.2.

Mr. V.N. Tayade for respondent No.3.

CORAM: V.M.KANADE,J.
DATE : 16th July, 2004

ORAL JUDGMENT:

1. Petitioner is challenging the order passed by the Deputy Commissioner of Labour & Chairmn Nashik Mathadi & Unprotected Labour Board dated 25/07/2000 who is respondent No. 1A herein, directing the petitioner to register itself under the Scheme as provided under clause 14 of the Nashik District Mathadi, Hamal & Other Manual Workers (Regulation of Employment & Welfare) Scheme, 1987 with further direction to the Board to ensure that the respondent No.2 is registered as per the Act and Scheme.

FACTS:

2. Petitioner is registered under the Companies Act having its registered Office at Worli, Mumbai and having one of its factories at Nasik in which about 700 workmen are engaged in manufacture and sale of pharmaceutical products which are packed in cartons. Petitioner's case is that for ad-hoc and sporadic job it employed contract labour through the contractors and has registered itself under the provisions of the

Contract Labour (Regulation & Abolition) Act, 1970 and respondent Nos. 2 and 3 were appointed as transport contractors who were paid on case basis for truck as also the labour and the rates including loading and unloading the truck with their labour which were revised from time to time. On 25/07/1997, the second respondent - Union lodged a complaint with the Chairman of the Mathadi Board that about 40 workmen were engaged by the petitioner in the scheduled employment in the premises of the petitioner and, thereafter, respondent No.1A passed an impugned order.

SUBMISSIONS:

3. It is submitted by the learned Counsel appearing on behalf of the petitioner that respondent No.1A had not taken into consideration whether the registration of the employer under the Mathadi Act and/or under the Mathadi Scheme and that of the workers engaged in any schedule employment is distinct and independent of each other and whether the registration of the employer was a condition precedent to registration of such labours. It is further submitted that respondent No.1A also had not considered whether the authority under the Act could direct the Board to allot a particular set of workers to any one employer. It is

further submitted that the respondent No.1A also had not taken into consideration whether the authority under the Mathadi Act had jurisdiction of a Labour Court in adjudicating on the legality and validity of termination of services of persons who were led off by the Transport Contractor.

4. The learned Counsel appearing on behalf of the respondents has vehemently opposed the said submissions made by the learned counsel appearing on behalf of the petitioner. He submitted that respondent No.1A has given cogent reasons and had rightly come to the conclusion that it was immaterial whether the workers were engaged through the Contractor or through the Board as long as the employment in which they were engaged is covered under the Schedule of the Act and Scheme.

FINDINGS:

5. We have perused the copy of the impugned Order. In our view, several submission of the petitioner have not been considered by respondent No.1A before passing the impugned order. The impugned order is, therefore, set aside. Respondent No.1A is directed to decide the said application afresh. In the cause title of the

application before Respondent No.1A, it appears that no notice has been given to respondent Nos. 3 to 8. The cause title shows that addresses of respondent Nos. 3 to 8 have not been mentioned. Merely their names have been mentioned. Respondent No.1A is directed to issue notice to respondent Nos. 3 to 8 after procuring their addresses. All contentions raised by the petitioner and the respondents are kept open. Respondent No.1A to decide the said application as expeditiously as possible and, in any case, within four months. Writ Petition is partly allowed.

6. Writ Petition is accordingly disposed of in the above terms.

(V.G. PALSHIKAR, J.)

(V.M. KANADE, J.)